

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 29th April, 2016

W.P.(CRL) 1322/2016 & CRL.M.A. 6941/2016

RAKESH & ORS

..... Petitioners

Through: Mr Rakesh Sharma, Advocate.

versus

STATE (NCT DELHI) & ANR

..... Respondents

Through: Ms Kamna Vohra, Addl. Standing
Counsel (Crl.).
SI Ram Singh, PS- Ambedkar Nagar.
Respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.465/2013 under Sections 406/498-A/34 IPC registered at Police Station- Ambedkar Nagar, South East District, New Delhi.

2. The facts in brief are that the petitioner no.1 (husband) and respondent no.2/complainant (wife) were married to each other according to Hindu rites

and customs on 24.11.2008. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 22.09.2012. No child has been born out of the said wedlock. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner no.1(husband) and his family members.

3. Counsel for the parties state that with the aid and assistance of Family Court, Saket, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably. The salient terms and conditions of the settlement as recorded in the report of the Counselling dated 22.07.2014 before the Principal Judge Family Court, Saket, are as follows:-

- “1. It has agreed between the parties that both the parties shall take divorce by way of mutual consent.
2. It has agreed between the parties that respondent/husband shall pay Rs.137500/- (Rupees One Lac Thirty Seven Thousand Five Hundred Only) to the petitioner/wife for full and final settlement against maintenance, alimony towards past present, future.
3. It has agreed between the parties that husband/respondent shall pay Rs.45,000/- (Rupees Forty Five Thousand Only) to petitioner/wife at the time of recording of statement of first motion of mutual divorce.
4. It has agreed between the parties that respondent/husband shall pay Rs.45,000/- (Rupees Forty Five Thousand Only) to petitioner/wife at the time of recording of statement of second motion.
5. It has agreed between the parties that respondent/husband shall pay Rs.47,500/- (Rupees Forty Seven Thousand Five Hundred only) to wife/petitioner at the time of quashing of FIR 465/13

under Section o 498A.

6. It has agreed between the parties that petitioner/wife shall also withdraw her case of maintenance which is pending in the court of Sh. Rakesh Siddhartha Ld. Principal Judge Family Court Saket, N.Delhi at the time of recording of statement of first motion of mutual divorce.
7. It has agreed that between the parties that both the parties shall file application for quashing of FIR No.465/13 in Hon'ble High Court of Delhi at the first motion of mutual divorce.
8. It has agreed between the parties that respondent/husband shall return all dowry items to petitioner/wife before recording of statement of first motion of mutual divorce.
9. It has agreed between the parties that both the parties shall file mutual divorce petition on or before 11.8.2014 in the court of Sh. Rakesh Siddhartha Ld. Principal Judge Family court Saket. N. Delhi”

4. In a nutshell, it has been agreed by and between the parties to the union that respondent no. 2 (wife) shall be paid a sum of Rs.1,37,500/- towards all her claims *vis. a vis.* permanent alimony, dowry articles, maintenance past, present and future etc. against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement dated 22.07.2014, a sum of Rs.90,000/- has already been received by respondent no.2 (wife). The balance sum of Rs.47,500/- has been handed over to the respondent no.2 by way of a demand draft bearing No.895580 dated 27.04.2016 drawn on Punjab National Bank, Khanpur, New Delhi, in court today. The respondent no.2 acknowledges receipt thereof subject to encashment.

6. In the present case, it is observed that pursuant to the settlement arrived at between the parties to the union, a decree of divorce by mutual consent dated 22.02.2016 has already been obtained by the parties from the concerned Family Court, Saket, New Delhi.

7. Respondent No.2/complainant (wife), who is present in Court and has been duly identified by the IO in the subject FIR, namely, SI Ram Singh, PS-Ambedkar Nagar, Delhi, states that in pursuance to the settlement arrived at between the parties to the union, she is no longer keen to proceed with the subject FIR.

8. Since the dispute between the parties which arose out of a matrimonial discord between the petitioners and respondent no. 2 and resulted in the registration of the subject FIR, has been settled amicably without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent; and since the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR.

9. Resultantly, FIR No.465/2013 under Sections 406/498-A/34 IPC registered at Police Station- Ambedkar Nagar, South East District, New Delhi, is hereby set aside and quashed qua the petitioners subject to their depositing a sum of Rs.15,000/- in the aggregate with the Victims' Compensation Fund within a period of three months from today. The receipt of the said deposit shall be furnished to the IO in the subject FIR.

10. With the above directions the writ petition is allowed and disposed of accordingly.

APRIL 29, 2016
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SIDDHARTH MRIDUL, J